

WC 10-84

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FILED/ACCEPTED

APR 23 2010

Federal Communications Commission
Office of the Secretary

In the Matter of

Nevada Utilities Company d/b/a "*Nevada Telephone*"

And d/b/a "*Excella*" ("Licensee") FRN: 0007268311

Nevada Telecom Solutions, Inc.

("Transferor")

And

BroadRiver, Inc.

("Transferee") FRN: 0019653930

Application for authority pursuant
to Section 214 of the
Communications Act of 1934,
as amended, for global authority
to operate as an international
facilities-based and resale carrier

File No.: ITC-214-20090219-00095

JOINT APPLICATION FOR TRANSFER OF AUTHORITY

BroadRiver, Inc. ("BroadRiver" or "Transferee"), and Nevada Telecom Solutions, Inc. ("Nevada Telecom" or "Transferor") which is the holding company of the wholly-owned subsidiary Nevada Utilities Company d/b/a "Nevada Telephone" and "Excella Communications" ("Nevada Utilities" or "Licensee"), herein collectively called the "Applicants" (hereby request a transfer of control and authority, pursuant to Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. Section 214 *et. al.* (1982), and Section 63.18 of the Federal Communication Commission's (hereafter called "Commission") Rules, 47 C.F.R. Section 63.18, to provide global or limited international facilities-based and resale services between the United States and international points, except those international point not authorized by the Commission and updated from time to time on the Commission's Exclusion List. Applicant **BroadRiver** is a U.S. investment company and does not provide international telecommunications services. Applicant and Licensee Nevada Utilities is a telecommunications company that currently provides international telecommunications services and is wholly owned by Transferor Nevada Telecom. BroadRiver; Nevada Telecom; and Nevada Utilities have no foreign affiliations. Licensee Nevada Utilities serves customers throughout the United States, but primarily end users in the

state of Nevada. By granting this application, the Commission will serve the public interest, convenience and necessity by promoting competition in the international services market. Competition will benefit U.S. consumers by increasing service options and lowering prices. Thus, the public interest will be served by the grant of transfer of Control from Transferor to Transferee of Nevada Utilities Section 214 authority.

Concurrently herewith, Nevada Utilities and BroadRiver are filing a request for special temporary authority for BroadRiver to control Nevada Utilities and continue to provide international services to end-users pending the grant of this transfer of control of authority. BroadRiver is prepared to continue offering services to the Nevada Utilities customers and requests immediate authority so that BroadRiver, by and through Nevada Utilities, may provide international Section 214 services and disruption of services to Nevada Utilities' customers can be avoided.

I. INTRODUCTION:

A. Summary of the Contemplated Transaction

BroadRiver, Inc. ("BroadRiver" or "Transferee"), and Nevada Telecom Solutions, Inc. ("Nevada Telecom" or "Transferor") which is the holding company of the wholly-owned subsidiary Nevada Utilities Company *d/b/a* "Nevada Telephone" and "Excella" ("Nevada Utilities" or "Licensee"), herein collectively called the "Applicants" pursuant to Section 214 of the Communications Act as amended (found at 47 U.S.C. §214 et. al., and Section 63.04 of the Commission's Rules, found at 47 C.F.R. §63.04 et. al.) respectfully request that the Federal Communications Commission ("Commission") grant approval to consummate a transaction whereby BroadRiver shall acquire all control and interest of Nevada Utilities, a competitive local exchange carrier that holds authority from the Commission to provide interstate telecommunications services¹. Concurrently, the Applicants are filing a request for special temporary authority to operate while the Commission's decision is pending a final determination. Although the proposed transaction will result in a change in the ultimate ownership of Nevada Utilities, no transfer of certificates, assets or customers will occur as a consequence of the proposed transaction. Nevada Utilities will continue to provide service to its existing customers under the

¹ Nevada Utilities holds international section 214 authorization under ITC-214-20090219-00095 granted March 13, 2009. Concurrent with this Transfer of Control of Nevada Utilities' international 214 Authorization, BroadRiver is filing an application for a transfer of control of Nevada Utilities' Domestic Section 214 authorization with the Commission's Wireline Bureau as well as a request for special temporary authority to provide such services pending the grant of such authority.

same rates, terms and conditions it does so presently. This transaction will be virtually transparent to the customers of Nevada Utilities.

B. Request for Streamlined Processing

The Applicants respectfully submit that this Application is eligible for streamlined processing pursuant to Section 63.03 of the Commission's Rules, found at 47 C.F.R. § 63.03. This Application is eligible for streamlined processing pursuant to Section 63.03(b)(2)(i) because, immediately following the transactions: (1) Applicants and their affiliates, as defined in Section 3(1) of the Communications Act (hereafter called "Affiliates") combined will hold less than a ten percent (10%) share of the interstate and/or interexchange market; (2) Applicants and their Affiliates will provide local exchange service only in areas served by dominant local exchange carriers (no dominant local exchange carriers are parties to the proposed transactions); and (3) Neither the Applicants nor their Affiliates are, or will be, dominant with respect to any service.

In support of this Application, Applicants provide the following information:

II. DESCRIPTION OF THE APPLICANTS

A. BroadRiver, Inc. ("Transferee")

BroadRiver is a privately-held Georgia Corporation with its principal offices at 1000 Hemphill Ave, Atlanta, GA 30318. It is an investment/holding company with a wholly-owned subsidiary, BroadRiver Communication Company, provides telecommunications services in the form of local exchange and Inter-exchange services in the states of Georgia, Florida, and Alabama. All of the services provided by BroadRiver subsidiaries are competitive in nature and neither BroadRiver, Inc. nor any affiliated company holds a dominant position in any market.

B. Nevada Telecom Solutions, Inc. ("Transferor")

Nevada Telecom is a privately-held Nevada corporation with its principal offices at 1700 South Main Street Las Vegas, NV 89104. It is comprised of three shareholders who serve as the management and administrators of Nevada Utilities and control the day-to-day operation of the wholly-owned subsidiary. The following individuals, all U.S. citizens, directly or indirectly own at least 10 percent of the equity of Nevada Telecom: (1) Mr. Jack Pestaner (33.33%); (2) Mr. Jason McLemore (33.33%); and (3) Mr. Jason Koenders (33.33%), and no other individual or entity holds a 10% or greater interest in

Nevada Telecom. Nevada Telecom was formed to hold Nevada Utilities when acquired by Nevada Telecom from its prior owners. See. ITC-214-20090219-00095 March 13, 2009.

C. Nevada Utilities Company d/b/a "Nevada Telephone" and "Excella Communications" ("Licensee")

Nevada Utilities is a Nevada corporation with its principal offices at 1700 South Main Street Las Vegas, NV 89104. Nevada Utilities is an existing Competitive Local Exchange Carrier ("CLEC") providing resold interstate long-distance service in the greater Las Vegas, Nevada area. Nevada Utilities provides intrastate and interstate telecommunications services to approximately several hundred customers in the State of Nevada. Nevada Utilities holds international Section 214 authority: ITC-214-20090219-00095 and holds authority from the Nevada Public Utility Commission to provide facilities-based and resold local exchange telecommunications services throughout the state of Nevada. Nevada Utilities, Inc. d/b/a Nevada Telephone has approximately 5,500 customers, consisting of approximately 5,000 residential customers and 500 commercial customers in the metropolitan Las Vegas, Nevada region.

III PUBLIC INTEREST CONSIDERATIONS:

The Applicants believe that the added competition this Transfer of Control will bring to the market will benefit the consumers of United States-international telecommunications services, and specifically those in the State of Nevada. This includes competitive pricing of services and increased availability of a variety of innovative service options. Therefore, grant of this Application will further the public interest.

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And)	File No.: ITC-214-20090219-00095
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Application Attachment I.
(Information pursuant to 47 CFR § 63.12)

The following information is submitted, as required by 47 CFR § 63.12 of the Commission's Rules, in support of **BroadRiver**'s request for transfer of Control of Nevada Utilities' authorization:

In Response to Question 9 of FCC 214 Application:

BroadRiver respectfully requests streamline processing pursuant to 47 CFR § 63.12 and certifies that:

1. It is not affiliated with a foreign carrier in a destination market it seeks authority to serve;
2. It has no affiliation with a dominant U.S. carrier whose international switched or private line services BroadRiver through its control of Nevada Utilities seeks authority to resell, either directly or indirectly through the resale of another reseller's services;
3. It does not seek authority to provide switched basic services over private lines to a country for which the Commission has not previously authorized the provision of switched services over private lines.
4. The Commission has not informed BroadRiver in writing that this Application is not eligible for streamlined processing.

In Response to Question 10 of FCC 214 Application:	Not Applicable.
In Response to Question 11 of FCC 214 Application:	Not Applicable.
In Response to Question 12 of FCC 214 Application:	Not Applicable.
In Response to Question 13 of FCC 214 Application:	Not Applicable.

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Application Attachment II.
(Information pursuant to 47 CFR § 63.18)

The following information is submitted, as required by 47 CFR § 63.18 of the Commission's Rules, in support of Applicant's request for authorization:

47 CFR § 63.18(a): The names, addresses and telephone numbers of the Applicants are as follows:

Licensee:

Nevada Utilities Company d/b/a "Nevada Telephone"
and "Excella Communications"

FRN:0007268311

1700 South Main Street Las Vegas, NV 89104

Tel: (702) 888-1018

Fax: (702) 531-5000

Transferor:

Nevada Telecom Solutions, Inc.

1700 South Main Street Las Vegas, NV 89104

Tel: (702) 888-1018

Fax: (702) 531-5000

Attn: Mr. Jack Pestaner

Transferee:

BroadRiver, Inc.

FRN: 0019653930

1000 Hemphill Ave, Atlanta, GA 30318

Tel: (404) 961-1038

Fax: (404) 961-1886

Attn: Mr. Michael Landreth

47 CFR § 63.18(b): Jurisdiction of Organizations

- (1) Licensee: Nevada Utilities Company d/b/a "Nevada Telephone" and "Excella Communications" is a **company** incorporated under the laws of the **State of Nevada**.
- (2) Transferor: Nevada Telecom Solutions, Inc. is a **company** incorporated under the laws of the **State of Nevada**.
- (3) Transferee: BroadRiver, Inc. is a **company** incorporated under the laws of the **State of Georgia**.

48 CFR § 63.18(c): Correspondence concerning this application should be sent to:

- (1) For Nevada Utilities Company d/b/a "Nevada Telephone" and "Excella Communications"
1700 South Main Street Las Vegas, NV 89104
Tel: (702) 888-1018
Fax: (702) 531-5000
Attn: Mr. Jack Pestaner
- (2) For Nevada Telecom Solutions, Inc.
1700 South Main Street Las Vegas, NV 89104
Tel: (702) 888-1018
Fax: (702) 531-5000
Attn: Mr. Jack Pestaner
- (3) For BroadRiver, Inc.
Mr. Michael Landreth, CFO
1000 Hemphill Ave,
Atlanta, GA 30318
Tel: (404) 961-1038
Fax: (404) 961-1886

With Copy to: **Edward A. Maldonado, Esq.**
Maldonado Law Group
7925 NW 12th Street, Suite 300
Miami, FL 33125
Tel: (305) 477-7580
Fax: (305) 477-7504

In Response to Question 14 and 15 of FCC 214 Application:

47 CFR § 63.18(d): Nevada Utilities Company d/b/a "Nevada Telephone" and "Excella Communications" and Nevada Telecom Solutions, Inc. have previously received authority under Section 214 of the Act. BroadRiver has not previously received authority under Section 214 of the Act.

47 CFR § 63.18(e): Applicant BroadRiver by and through its control of Nevada Utilities requests global or limited facilities-based and resale Section 214 authority pursuant to the terms and conditions of Section 63.18(e)(1) and (e)(2) of the Commission's Rules. Applicant is not applying for authority to acquire facilities or to provide services not covered by paragraphs (e)(1) through (e)(3) of Section 63.18. Applicant is not seeking facilities-based authority under paragraph (e)(4) of Section 63.18.

47 CFR § 63.18(g): Applicant BroadRiver by and through its control of Nevada Utilities will use previously authorized facilities to provide the services requested by the Application. BroadRiver is excluded from environmental assessment pursuant to Section 1.1306 of the Commission's Rules. 47 C.F.R. § 1.1306.

CFR § 63.18(h): Following the completion of the transaction between BroadRiver and Nevada Telecom the information regarding the 10% or greater direct or indirect owners of Nevada Utilities shall be as follows:

Name :	BroadRiver, Inc. (FRN: 0019653930)
Address:	1000 Hemphill Ave, Atlanta, GA 30318
Citizenship:	U.S. Citizen/Corporation
Principal Business:	Investment Company
Ownership:	100%

BroadRiver, Inc. is a privately-held company Georgia Corporation. The persons or entities holding 10 percent or more of the shares of BroadRiver are as follows:

Name:	Michael Oken
Address:	1000 Hemphill Ave, Atlanta, GA 30318
Citizenship:	U.S. Citizen
Principal Business:	Telecommunications Services
Ownership:	65%

Name:	H.K.L., L.C.
Address:	411 Old Post Road Madison GA 30650
Citizenship:	U.S. Citizen
Principal Business:	Investment Company
Ownership:	35%

Shareholder H.K.L., L.C. is a privately-held limited liability company incorporated in the State of Florida Corporation and domiciled in Georgia. The persons or entities holding 10 percent or more of the interest of H.K.L., L.C. are as follows:

Name:	Ms. Katrin Sheehan
Address:	411 Old Post Road Madison GA 30650
Citizenship:	U.S. Citizen
Principal Business:	Investment Company
Ownership:	100%

There are no interlocking directorates.

47 CFR § 63.18(i): BroadRiver and Nevada Utilities respectively certify that they are not affiliated with any foreign facilities-based carriers or US dominant carriers.

47 CFR § 63.18(j): BroadRiver and Nevada Utilities respectively certify that they do not seek to provide international telecommunication services to any destination country for which any of the following are true:

1. **Nevada Utilities** is a foreign carrier in that country; or
2. **Nevada Utilities** controls a foreign carrier in that country; or
3. Any entity that owns more than twenty-five percent (25%) of **Nevada Utilities**, or that controls **Nevada Utilities**, controls a foreign carrier in that country.

47 CFR § 63.18(k): Not Applicable.

47 CFR § 63.18(l): Not Applicable.

47 CFR § 63.18(m): Not Applicable.

47 CFR § 63.18(n): BroadRiver and Nevada Utilities certifies that it has not agreed and will not agree in the future to accept any direct or indirect special concessions from a foreign carrier or administration with regards to traffic or revenue flows between the United States and any foreign countries the company is authorized to serve.

47 CFR § 63.18(o): The Applicants certify that no party to this application has been denied federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.

47 CFR § 63.18(p): The Applicant respectively request Streamline Processing of this Application pursuant to Section 63.12 of the Commission's Rules. 47 C.F.R. § 63.12.

CONCLUSION

In conclusion of the foregoing Application and Attachments, the Applicant BroadRiver certifies that all of the information in this application is accurate and correct. For these reasons, respectfully requests that the Commission grant this application.

Respectfully submitted,

BroadRiver, Inc.

By: /s/ Michael Landreth /s/

Name **Michael Landreth**

Title: CFO of BroadRiver, Inc.

VERIFICATION

I, Michael Landreth, state that I am the Chief Financial Officer of BroadRiver, Inc.; that I am authorized to make this Verification on behalf of BroadRiver, Inc.; that the foregoing filing was prepared under my direction and supervision; and that the contents are true and correct to the best of my knowledge, information, and belief.

I declare under penalty of perjury that the foregoing is true and correct. Executed this March 18, 2010.

BroadRiver, Inc.

By: Michael Landreth

Name **Michael Landreth**

Title: CFO of BroadRiver, Inc

CERTIFICATION OF APPLICANT

The undersigned hereby certifies, on behalf of BroadRiver, Inc. with respect to the foregoing application for section 214 authority to provide international services that:

1. BroadRiver is not affiliated with any foreign carrier in any of the countries to which BroadRiver proposes to provide service in the foregoing application.
2. BroadRiver will comply with the terms and conditions contained in Section 63.21, 63.22 and 63.23 of the Commission's Rules. 47 C.P.R. 63.21-.23
3. BroadRiver does not seek to provide international telecommunications service to any destination where: (1) BroadRiver is a foreign caller in that country; (2) BroadRiver controls a foreign carrier in that country; (3) any entity that owns more than a 25% interest in BroadRiver, or controls BroadRiver, controls a foreign carrier in that country; or (4) two or more parties own, in the aggregate, more than 25% of BroadRiver and are parties to, or the beneficiaries of, a contractual relationship that affects that provision or marketing of international basic telecommunications services in the United States.
4. BroadRiver has not agreed to accept special concessions directly or indirectly from any foreign carrier with respect to any U.S. international route where the foreign carrier possesses sufficient market power on the foreign end of the route to affect competition adversely in the U.S. market and will not enter into such agreements in the future
5. BroadRiver is not subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.
6. The contents of the Application are true and correct to the best of my knowledge, information, and belief.

Respectfully submitted, This March 18, 2010

BroadRiver, Inc.

By: 

Name **Michael Landreth**

Title: CFO of BroadRiver, Inc